

AN ACT

relating to limiting the liability of space flight entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100A to read as follows:

CHAPTER 100A. LIMITED LIABILITY FOR SPACE FLIGHT ACTIVITIES

Sec. 100A.001. DEFINITIONS. In this chapter:

(1) "Launch" means a placement or attempted placement of a vehicle or rocket and any payload, crew, or space flight participant in a suborbital trajectory, earth orbit, or outer space, including activities involved in the preparation of a launch vehicle or payload for launch.

(2) "Reentry" means a purposeful return or attempt to return a reentry vehicle and the payload, the crew, or a space flight participant from earth orbit or from outer space to earth.

(3) "Space flight activities" means activities and training in all phases of preparing for and undertaking space flight, including:

(A) the preparation of a launch vehicle, payload, crew, or space flight participant for launch, space flight, and reentry;

(B) the conduct of the launch;

(C) conduct occurring between the launch and reentry;

(D) the preparation of a reentry vehicle, payload, crew, or space flight participant for reentry;

(E) the conduct of reentry and descent;

(F) the conduct of the landing; and

(G) the conduct of postlanding recovery of a reentry vehicle, payload, crew, or space flight participant.

(4) "Space flight entity" means a person who has obtained the appropriate Federal Aviation Administration license or other authorization, including safety approval and a payload determination. The term includes:

(A) a manufacturer or supplier of components, services, or vehicles used by the entity and reviewed by the Federal Aviation Administration as part of issuing the license or other authorization; and

(B) an employee, officer, director, owner, stockholder, member, manager, or partner of the entity, manufacturer, or supplier.

(5) "Space flight participant" means an individual, who is not crew, carried aboard a launch vehicle or reentry vehicle.

(6) "Space flight participant injury" means an injury sustained by a space flight participant, including bodily injury, emotional distress, death, property damage, or any other loss arising from the individual's participation in space flight activities.

Sec. 100A.002. LIMITED LIABILITY. (a) Except as provided by Subsection (b), a space flight entity is not liable to any person for a space flight participant injury or damages arising out of the

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space flight participant injury if the space flight participant has signed the agreement required by Section 100A.003 and given written consent as required by 49 U.S.C. Section 70105.

(b) This section does not limit liability for an injury:

(1) proximately caused by the space flight entity's gross negligence evidencing wilful or wanton disregard for the safety of the space flight participant; or

(2) intentionally caused by the space flight entity.

Sec. 100A.003. WARNING REQUIRED. (a) A space flight participant must sign an agreement and warning statement before participating in any space flight activity. The agreement must include the following language and any other language required by federal law:

AGREEMENT AND WARNING

I UNDERSTAND AND ACKNOWLEDGE THAT A SPACE FLIGHT ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF A SPACE FLIGHT PARTICIPANT RESULTING FROM SPACE FLIGHT ACTIVITIES. I UNDERSTAND THAT I HAVE ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER LOSS THAT MAY RESULT FROM SPACE FLIGHT ACTIVITIES.

(b) An agreement under Subsection (a) is considered effective and enforceable if it is:

(1) in writing;

(2) in a document separate from any other agreement between the space flight participant and the space flight entity other than a different warning, consent, or assumption of risk statement;

(3) printed in not less than 10-point bold type; and

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1           (4) signed by the space flight participant and a  
2 competent witness.

3           Sec. 100A.004. AGREEMENT EFFECTIVE AND ENFORCEABLE.

4 (a) Except as provided by Subsection (b), an agreement between a  
5 space flight entity and a space flight participant limiting or  
6 otherwise affecting liability arising out of space flight activity  
7 is effective and enforceable and is not unconscionable or against  
8 public policy.

9           (b) An agreement described by this section may not limit  
10 liability for an injury:

11           (1) proximately caused by the space flight entity's  
12 gross negligence evidencing wilful or wanton disregard for the  
13 safety of the space flight participant; or

14           (2) intentionally caused by a space flight entity.

15           SECTION 2. The change in law made by this Act applies only  
16 to a cause of action that accrues on or after the effective date of  
17 this Act. A cause of action that accrues before the effective date  
18 of this Act is governed by the law in effect immediately before the  
19 effective date of this Act, and that law is continued in effect for  
20 that purpose.

21           SECTION 3. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2011.

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David Newkirk

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 115 passed the Senate on  
March 15, 2011, by the following vote: Yeas 31, Nays 0. \_\_\_\_\_

Arlene Spaw

Secretary of the Senate

I hereby certify that S.B. No. 115 passed the House on  
April 12, 2011, by the following vote: Yeas 147, Nays 0, one  
present not voting. \_\_\_\_\_

Robert Hancey

Chief Clerk of the House

Approved:

21 APR '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

6:20 PM O'CLOCK

APR 21 2011

Donna Mahoney  
Secretary of State